

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No.15A-15096-MDX

3 **WENDY E. COHEN, M.D.,**

4 Holder of License No. 15096
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
(Suspension)**

7 On August 5, 2015, this matter came before the Arizona Medical Board ("Board")
8 for consideration of the Administrative Law Judge (ALJ) Tammy L. Eigenheer's proposed
9 Findings of Fact, Conclusions of Law and Recommended Order. Wendy E. Cohen, M.D.,
10 ("Respondent") did not appear before the Board; Assistant Attorney General Carrie H.
11 Smith, represented the State. Christopher Munns with the Solicitor General's Section of
12 the Attorney General's Office, was available to provide independent legal advice to the
Board.

13 The Board, having considered the ALJ's decision and the entire record in this
14 matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

15 **FINDINGS OF FACT**

- 16 1. The Arizona Medical Board (the Board) is the authority for the regulation and
17 control of the practice of allopathic medicine in the State of Arizona.
- 18 2. Wendy E. Cohen, M.D. (Respondent) is the holder of License No. 15096 for the
19 practice of allopathic medicine in Arizona since 1985.
- 20 3. On or about January 16, 2011, Respondent's Arizona medical license was placed
21 on inactive status pursuant to A.R.S. § 32-1431. The form completed by Respondent to
22 request the change to inactive status included the statement, "My signature below serves
23 to certify the following: That I am totally retired from the practice of medicine in this state
24 or any state, territory, or district of the United States or foreign country." Respondent
25 crossed through that sentence and initialed next to it. While on inactive status,
Respondent was not required to submit renewal applications and was prohibited from
practicing medicine in any jurisdiction.

1 4. On or about May 5, 2001, Respondent entered into a cease and desist consent
2 order with the New Jersey Medical Board (NJMD), which made a finding of
3 misrepresentation and unprofessional conduct and prohibited her from engaging in billing
4 activity.

5 5. On or about January 23, 2006, the California Medical Board (CMB) filed an
6 accusation against Respondent's California medical license. The accusation was based
7 on the order issued by the NJMB.

8 6. On or about July 6, 2006, the CMB affirmed the information contained in the
9 accusation and adopted a proposed decision from an Administrative Law Judge. The
10 decision ordered the issuance of a public reprimand to Respondent and required her to
11 enroll in a medical ethics and billing practices course.

12 7. On or about October 23, 2007, Respondent successfully completed a billing
13 practices course.

14 8. On or about May 14, 2010, through May 16, 2010, Respondent attended a medical
15 ethics course at the Center for Personalized Education for Physicians (CPEP).

16 9. On or about June 14, 2010, CPEP reported that Respondent failed the course.

17 10. On or about October 29, 2010, the CMB revoked Respondent's California medical
18 license for her failure to comply with the CMB order based the fact that Respondent failed
19 the medical ethics course.

20 11. On or about May 10, 2012, the NJMB suspended Respondent's New Jersey
21 medical license based on the CMB's action.

22 12. On or about March 7, 2014, the New York Medical Board (NYMB) indefinitely
23 suspended Respondent's New York medical license based on the revocation of her
24 California medical license. The order for indefinite suspension provides that if
25 Respondent complies with the CMB's order and the NYMB agrees to lift the suspension,
the NYMB will place Respondent's New York medical license on a three-year probation.

13. On or about March 7, 2014, the Board initiated case number MD-14-0396A after
receiving notification that the NYMB had indefinitely suspended Respondent's New York
medical license.

1 14. On or about April 4, 2014, the Board sent a letter to Respondent notifying her that
2 an investigation had been opened based on the suspension of her New York and New
3 Jersey licenses and the revocation of her California license.

4 15. On or about April 16, 2014, Respondent replied to the letter acknowledging that
5 her Arizona medical license was on inactive status and that her licenses in New Jersey,
6 California, and New York had been disciplined.

7 16. On or about July 22, 2014, the Board sent letter to Respondent asking for
8 additional information. Specifically, the Board asked, "1. After your Arizona license
9 became inactive on January 16, 2001, did you practice medicine in any other states? If
10 so, where?" and "2. Where are you currently practicing medicine?" In response,
11 Respondent returned the letter with handwritten notations next to question 1 reading, "Y
12 NJ," and next to question 2 reading, "not practicing."

13 17. On April 14, 2015, the Board issued an Amended Complaint and Notice of Hearing
14 to Respondent alleging Respondent had engaged in unprofessional conduct pursuant to
15 A.R.S. § 32-1401(27)(o) and A.R.S. § 32-1401(27)(t). The Amended Complaint and
16 Notice of Hearing was sent via certified mail to Respondent at her address of record.

17 18. A hearing was held at the Office of Administrative Hearings on May 20, 2015.
18 Respondent did not request to appear telephonically at the duly noticed hearing and did
19 not request that the hearing be continued. Although the start of the hearing was delayed
20 20 minutes to allow Respondent additional travel time, she did not appear, personally or
21 through an attorney, and did not contact the OAH to request that the start of the hearing
22 be further delayed. Consequently, Respondent did not present any evidence to defend
23 her license.

24 CONCLUSIONS OF LAW

25 1. The Amended Complaint and Notice of Hearing that the Board mailed to
Respondent at her address of record was reasonable, and Respondent is deemed to
have received notice of the hearing. See A.R.S. § 41-1092.04; A.R.S. § 41-1061(A).

2. The Board has jurisdiction over Respondent and the subject matter in this case.

1 3. Pursuant to A.R.S. § 41-1092.07(G)(2) and A.A.C. R2-19-119(B), the Board has
2 the burden of proof in this matter. The standard of proof is by clear and convincing
3 evidence. A.R.S. § 32-1451.04.

4 4. The evidence established that Respondent's New York and New Jersey medical
5 licenses were suspended and her California medical license was revoked. Therefore, the
6 Board established that Respondent committed unprofessional conduct as defined by
7 A.R.S. § 32-1401(27)(o) ("[a]ction that is taken against a doctor of medicine by another
8 licensing or regulatory jurisdiction due to that doctor's mental or physical inability to
9 engage safely in the practice of medicine or the doctor's medical incompetence or for
10 unprofessional conduct as defined by that jurisdiction and that corresponds directly or
11 indirectly to an act of unprofessional conduct prescribed by this paragraph. The action
12 taken may include refusing, denying, revoking or suspending a license by that jurisdiction
13 or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or
14 monitoring a licensee by that jurisdiction or placing a licensee on probation by that
15 jurisdiction").

16 5. The evidence established that Respondent practiced medicine in New Jersey after
17 placing her Arizona license on inactive status. The form to request a change to inactive
18 status included an affirmation that the licensee was "totally retired" from the practice of
19 medicine in all jurisdictions. Therefore, the Board established that Respondent
20 committed unprofessional conduct as defined by A.R.S. § 32-1401(27)(t) ("[k]nowingly
21 making any false or fraudulent statement, written or oral, in connection with the practice
22 of medicine or if applying for privileges or renewing an application for privileges at a
23 health care institution").

24 6. The Arizona legislature created the Board to protect the public. See Laws 1992,
25 Ch. 316, § 10. Respondent's failure to successfully complete the required courses
pursuant to the order of the CMB and subsequent discipline in California, New Jersey, and
New York indicate that she cannot be regulated at this time. Therefore, the Board should
suspend Respondent's license to practice allopathic medicine.

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ORDER

Based on the foregoing, IT IS ORDERED that on the effective date of the Board's final order in this matter, License No. 15096 for the practice of allopathic medicine in Arizona previously issued to Respondent Wendy E. Cohen, M.D. is SUSPENDED for a period of ten years. If Respondent wishes to practice medicine in the State during the period of suspension, Respondent may request reinstatement of her license from the Board.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 10th day of August 2015.

THE ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

ORIGINAL of the foregoing filed this
10th day of August, 2015 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

1 COPY of the foregoing filed this
2 10th day of August, 2015 with:

3 Greg Hanchett, Director
4 Office of Administrative Hearings
5 1400 W. Washington, Ste 101
6 Phoenix, AZ 85007

6 Executed copy of the foregoing
7 mailed by U.S. Mail this
8 10th day of August, 2015 to:

8 Wendy E. Cohen, M.D.
9 Address of Record

10 Carrie H. Smith
11 Assistant Attorney General
12 Office of the Attorney General
13 CIV/LES
14 1275 W. Washington
15 Phoenix, AZ 85007

15 Mary Baker
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